

REMARKS

Applicant thanks the Examiner for diligent and thorough review of the prior art of record and the pending claims.

Rejection under 35 U.S.C. 101

In the Office Action ("OA"), claims 1-26, 32, 33 and 43-56 were rejected under 35 U.S.C. 101 "because the claims are not 'within the technological arts.' The body of the claims should include computer structure or computer based-steps which perform a non-trivial data processing function. Candidates for acceptable 'technology' would include computerized generation, management and redemption of credit features rather than simple input, output or data transmission." (OA, p. 2)

In response, independent claim 1 has been amended to recite as follows:

Claim 1 (currently amended) A **computer implemented** process for awarding a credit to a Recipient as an incentive for the timely payment of a billed charge, wherein the billed charge is identified on a Sponsor's computerized books as an account receivable, comprising:

electronically receiving an identification of an eligible Recipient;

electronically receiving an identification of at least one qualified account receivable associated with the eligible Recipient;

electronically generating an award based upon the amount of the at least one qualified account receivable; and

transmitting, via a computer network, [rewarding] the award to the Recipient.

As identified above in bold text, claim 1 has been amended to specify that a "computerized process" electronically receives information, electronically generates an award, and transmits the award "via a computer network." Since a human can not "electronically" receive information or generate an award, claim 1, as amended recites patentable subject matter.¹ Therefore, the rejection under 35 U.S.C. 101 is overcome and Applicant respectfully requests withdrawal of the this rejection.

¹ In using the term "electronically," Applicant seeks to distinguish the recited invention over human performed acts and does not limit the devices capable of "electronically" receiving,

Claims 2-26, 32, 33 and 43-56 have been similarly amended to recite “computer” or “electronic” implementations of the recited systems and processes/methods. Applicant respectfully refers the Examiner to the above claim amendments for the specific elements and limitations recited in claims 2-26, 32, 33 and 43-56 which overcome the § 101 rejection.

Therefore, since each of claims 1-26, 32, 33 and 43-56 recited patentable subject matter, withdrawal of the § 101 rejection is proper and is respectfully requested.

Rejection under 35 U.S.C. 103

In the OA, claims 1-62 were “rejected under 35 U.S.C. 103 as being unpatentable over Zervides et al (US6052674) in view of Zervides et al (2004/0064371).” (OA, p. 5.) Applicant notes, however, that Publication No. 2004/0064371 is published in the name of Crapo and that the immediately following paragraphs in the OA state a rejection over Zervides (US6052674) in view of Crapo. Therefore, Applicant’s understanding is that Crapo is the second applied reference and not a second (different) Zervides reference. If Applicant’s understanding is incorrect, notification of the same is earnestly requested along with appropriate time to further respond, if necessary.

First, regarding the Zervides patent, Zervides discloses an “electronic commerce invoicing and collection system (EICS) which provides the services of invoicing, automatic ‘past due’ reminders.” (Zervides, Abstract) That is, Zervides discloses to one of ordinary skill in the art an invoicing system. The presently claimed invention does not provide an invoicing system. Thus, it should be recognized that one of ordinary skill in the art would not have looked to Zervides when trying to solve the needs expressed in the present application. An invoicing system is fundamentally different from an award/incentive system –as claimed herein.

Zervides discloses that “Customers of a supplier are encouraged to pay invoices promptly via increased leverage of the supplier, public disclosure of a customer’s payment behavior, and donations to charity.” (Zervides, Abstract) One of ordinary skill, upon reading Zervides Abstract, would recognize that Zervides is not an award program for desired behavior, rather it is an invoicing system that attempts to provide “customer payment behavior

generating or otherwise transmitting to only using electrical currents, as such functions may use mechanical, electrical, optical or other physical properties to accomplish the claimed invention.

modification.” (Zervides, Abstract) That is, in the Zervides system, payment behavior is coerced under threat of negative public disclosures and good payment behavior is not awarded, negative credit reports are simply not generated. Notably, these differences between Zervides system and Applicant’s claimed invention were noted in the OA (at p. 5).

More specifically, one of ordinary skill, desiring to create good will, after payment, for good customer’s payment behavior would not have looked to Zervides. At best, Zervides creates neutral good will (i.e., the Zervides customers may not strongly dislike Zervides system), and commonly, Zervides system actually destroys good will between the customer and the supplier by publishing poor payment history. Simply stated, one seeking to award their best customers does not look to Zervides for implementing Applicant’s claimed systems and processes.

Second, the Examiner states “Applicant however points out how several incentive systems are well known which reward timely bill payers. This admitted prior art includes providing discounts as well as the earning of (presumably physical) travel vouchers for timely payments.” (OA, p. 5) Applicant admits that prior art systems for providing discounts and travel stamps exist. Notably, these programs are “incentive”/award programs have many noted problems (see paragraphs, 3, 5 and 6 of the present application). These programs are not the penalty programs taught by Zervides. Further, there is no showing as to why one of ordinary skill would look to combine Zervides’ penalty system with a discount for early payment program or a paper based travel stamp system. Absent such showing, no motivation to combine exists.

Further, even if the Examiner could show that one of ordinary skill would have been motivated to combine Zervides with the prior art discount and paper stamp systems, such combination does not teach, mention or suggest “a computer implemented process ... comprising: electronically receiving an identification of an eligible Recipient...” Figure 6 in Zervides, is representative of Zervides’ teachings, and instead shows a system by which an invoice is sent to the EICS by a supplier. The EICS then forwards the invoice to the customer and then, based upon whether the customer timely pays or not, adds on surcharges and publishes payment behavior. Simply put, Zervides does not teach that the EICS would “receive and identification of an eligible Recipient” nor that an “eligible Recipient” even exists.

Likewise, claim 1 (for example) further recites “electronically generating an award based upon the amount of the at least one qualified account receivable.” Zervides does not teach,

mention or suggest that a “qualified account receivable” exists. Again, Zervides in view of Applicant’s disclosed prior art, also does not teach this limitation.

Third, Crapo is relied upon as supplying the missing teachings from Zervides. Specifically, the OA states “Crapo teaches a centralized system which enables user to earn electronic travel credits (webmiles –generic frequent flyer miles) as incentives for performing acts for various partners. These travel credits can be collected by users and redeemed for discounted travel products/services [abstract, ¶ 35].” (OA, p. 6) Applicant does not dispute that Crapo provides an award/incentive program. However, Crapo’s system is not applicants. For example, Crapo states that the “system determines whether the individual actively [or passively] contacted the system” and encourages registration with the system by “generic miles incentives.” (Crapo, Abstract) That is, Crapo’s disclosure is directed to encouraging on-line use of a system (as set forth in the “Description of the Background Art” – “on-line merchants are seeking new and effective ways to attract and retain customers in the wake of this increasing on-line competition.” (Crapo, ¶ 6) This emphasis of Crapo upon on-line commerce is also reflected in Crapo’s title “On-line Registration System and Method.”

Notably, Crapo makes no mention of awarding “timely payment of a billed charge”, as recited, in the preamble for pending claim 1. Likewise, Applicant believes that Crapo makes no mention of “account receivables”, let alone a “qualified account receivable” (as recited in claim 1). Like most frequent flyer programs,² Crapo appears to be directed to awarding purchasing behaviors. (See Crapo, ¶ 35) That is Crapo is not directed to rewarding Recipients based upon a “qualified account receivable.” Therefore, Crapo does not teach, mention or suggest the recited element of “electronically receiving an identification of at least one qualified account receivable associated with the eligible Recipient”, as recited in amended claim 1. Therefore, claim 1 is patentable over Zervides in view of Crapo.

To further set forth this distinction between awarding purchasing behaviors (as in Crapo and many other frequent flyer programs) claim 1 has been amended to recite “wherein the identification of at least one qualified account receivable is based upon the timely payment of an accounts receivable.” Similar amendments have been made to the other pending independent claims. Therefore, since neither Zervides nor Crapo teach an awards system based upon timely

² Crapo describes its invention in terms of “WebMiles” – see ¶ 33.


payment of accounts receivable, each of pending claims 1-62 are patentable over the prior art of record.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, a Notice of Allowance is earnestly solicited. As always, if the Examiner has any questions or concerns, or believes that a personal or telephonic interview will expedite prosecution, the Examiner is strongly encouraged to contact the undersigned attorney at any time.

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